

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BEATRICE WILLIAMSON and DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE, Long Beach, CA

*Docket No. 99-2224; Submitted on the Record;
Issued September 13, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has established that she sustained a traumatic injury on November 4, 1997 in the performance of duty.

In the present case, appellant filed a Form CA-1 (notice of traumatic injury), alleging that on November 4, 1997 she had dizziness and numbness on her left side. By decision dated March 19, 1998, the Office of Workers' Compensation Programs denied the claim. In a letter dated January 29, 1999, appellant requested reconsideration of her claim. Appellant indicated that she attributed her injuries to pulling a cart.

In a decision dated February 19, 1999, the Office denied modification of its prior decision.

The Board has reviewed the record and finds that appellant has not established a traumatic injury in this case.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing that he or she sustained an injury while in the performance of duty.² In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether "fact of injury" has been established. Generally "fact of injury" consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident, which is alleged to have occurred. The second component is whether the

¹ 5 U.S.C. §§ 8101-8193.

² *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.110(a).

employment incident caused a personal injury, and generally this can be established only by medical evidence.³

With respect to the employment incidents alleged, appellant's initial statement discussed incidents that appeared to have occurred over more than one workday, such as making field visits and other general work duties. These activities would be relevant to an occupational disease claim, rather than a traumatic injury claim.⁴ In her January 29, 1999 reconsideration request, she stated that she sustained injuries to her neck and back on November 4, 1997. Appellant further stated, "on the morning of November 1, 1997 I was pulling a cart which had my computer and a carrying cart with many cases inside. In the course of walking to the office, which is about two blocks from my office, I tried to prevent my computer from falling off the cart." The Board notes that appellant did not allege these incidents at the time of filing her claim. Appellant must submit a more detailed statement describing the time, place and manner of the incidents alleged, and an explanation for the delay in informing the Office of her allegations. It is not clear; for example, whether appellant is claiming the incidents occurred on November 1 or 4, 1997. The Office must have sufficient information to make a determination as to whether the incident occurred as alleged.⁵ Moreover, even if appellant can establish the incidents as alleged, she must submit medical evidence containing a complete and accurate history of injury and a reasoned opinion on causal relationship between a diagnosed condition and the employment incidents.⁶

The Board finds that appellant has not submitted sufficient evidence to establish fact of injury in this case.

³ See *John J. Carlone*, 41 ECAB 354, 357 (1989).

⁴ A traumatic injury means a condition caused by incidents within a single workday or shift; an occupational disease or illness means a condition produced by the work environment over more than a single workday. 20 C.F.R. § 10.5(q) and (ee). The record indicates that appellant did file an occupational disease or illness claim on February 19, 1998.

⁵ The Board notes that a claimant cannot establish fact of injury if there are inconsistencies in the evidence that cast serious doubt as to whether the specific event or incident occurred at the time, place and in the manner alleged. *Gene A. McCracken*, 46 ECAB 593 (1995); *Mary Joan Coppolino*, 43 ECAB 988 (1992).

⁶ *Robert J. Krstyen*, 44 ECAB 227, 229 (1992).

The decision of the Office of Workers' Compensation Programs dated February 19, 1999 is affirmed.

Dated, Washington, DC
September 13, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member